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R. Lewis Gable Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036-6799			EXAMINER LASTRA, DANIEL	
			ART UNIT 3688	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/818,400

Applicant(s)

MACLEAN ET AL.

Examiner

DANIEL LASTRA

Art Unit

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/30/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 13, 14 and 21-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 13, 14 and 21-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-4, 13-14 and 21-38 have been examined. Application 09/818,400 (APPARATUS AND METHOD OF FACILITATING THE EXCHANGE OF POINTS BETWEEN SELECTED ENTITIES) has a filing date 03/27/2001.

Response to Appeal Brief

2. In response to Office Action dated 06/02/2008, the Applicant filed an Appeal Brief. In view of the Appeal Brief filed on 06/30/2009, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 2, 13 and 21-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court

precedent, a method/process claim must (1) be tied to a particular machine or apparatus (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transforms a particular article to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)). A method/process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here the claims fail to meet the above requirements because the steps are neither tied to a particular machine or apparatus nor transforms a particular article to a different state or thing. The Applicant needs to add structure (i.e. apparatus) to the embodiment of the claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 13-14 and 21-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Postrel (U.S. 6,594,640).

As per claim 1, Postrel teaches:

A method of managing a first points issuer and a second points issuer, wherein first points are issued by the first points issuer and differ from the second points that are issued by the second points issuer, said managing method is implemented by a computer programmed to effect the following steps of:

(a) a customer setting a first number of the first points to be sold (see column 4, lines 3-45; col 9, lines 1-12);

(b) the first points issuers setting the point withdrawal rate of the first points and the second point issuer setting the deposit rate of the second points, each of said withdrawal rate and of said deposit rate being indicative of the monetary value of each of the first points and each of the second points respectively (see col 3, lines 32-37 “exchange rate”; col 9, lines 5-15 “conversion rate”; col 9, lines 49-55 “discount rate”). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposited into another reward entity (i.e. partner or associated air carrier¹) based upon an exchange rate². Therefore, Postrel allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial

¹ Postrel col 8, lines 27-38

discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased³.

(c) determining a second number of the second points based upon the point withdrawal and rate of the first points issuer, the deposit rate of the second points issuer and the first number of the first points (see column 4, lines 3-45; column 3, lines 35-45; column 5, lines 35-40; column 6, lines 37-47; column 7, lines 35-40; column 7, lines 63-67); and

(d) exchanging the first number of the first points from the first point issuer to the second point issuer (see column 4, lines 3-45; column 3, lines 35-45; column 5, lines 35-40; column 6, lines 37-47; column 10-12; column 15-20; column 11, line 60 – column 12, line 8). In Postrel, when a user makes a redemption request to a reward server for available points or value, said reward server repurchased said points at a discount or withdrawal rate⁴, where the value obtained from said repurchased is used to buy points from another point issuers at a conversion rate (i.e. deposit rate). Therefore, Postrel teaches a withdrawal and a deposit rate, as Postrel withdraws points from a first point issuer at a discount rate and uses a conversion rate to transform said points from said first point issuer to points that would be accepted (i.e. deposited) by another point issuer.

As per claim 2, Postrel teaches:

The method of managing as claimed in claim 1, wherein said step c) of determining the equivalent number of the second points comprises the substeps of:

² Postrel col 3, 30-35

(i) determining the monetary value of the first number of first points as the product of the first number of first points and the point withdrawal rate of the first points issuer (see column 9, lines 1-15; column 10, lines 15-20;). Postrel teaches that a user request for redemption contains a value to be redeemed, which consists withdrawing points from one point issuer and depositing said points at another issuer using a conversion rate⁵; and

(ii) determining the equivalent number of the second points as the quotient of the monetary value of the first number of first points divided by the point depositing rate of the second points issuer (see column 9, lines 10-15; column 10, lines 15-30). Postrel allows issuers who originally sold reward points in their program for use as an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased⁶. Therefore, Postrel teaches a withdrawal and a deposit rate because Postrel withdraws points from a first point issuer at a discount rate and uses a conversion rate to transform said points from said first point issuer to points that would be accepted (i.e. deposited) by another point issuer.

As per claim 3, Postrel teaches:

A system for managing first and second points issuers, first points are issued by a first point issuer and differ from second points that are issued by the second point issuer, said managing system comprising:

³ Postrel col 5, lines 60-67

⁴ Postrel col 9, lines 49-55

⁵ Postrel col 9, lines 1-15, col 8, lines 25-40

⁶ Postrel col 5, lines 60-67

(a) a first terminal having a first terminal database for storing an account of the customer's first points (see figures 4 and 5);

(b) a second terminal having a second terminal database for storing an account of the customer's second points (see col 7, lines 35-40); and

(c) a transaction center having a center input and a central computer programmed to effect the following steps:

(i) the customer setting via said center input a first number of first points to be sold (see figure 4, item 20);

(ii) the first point issuer setting a point withdrawal rate of the first points and the second point issuer setting a point deposit rate of the second points, each of said withdrawal rate and said deposit rate being indicative of the monetary value of each of their first points and the monetary value of each of their second points respectively (see column 3, lines 35-55; column 6, lines 37-67; column 7, lines 37-40; column 9, lines 10-12; column 10, lines 15-20);

(iii) determining an equivalent number of the second points based upon the point withdrawal and rate of the first points issuer, the point deposit rate of the second point issuer, and the first number of the first points (see column 3, lines 35-55; column 6, lines 37-67; column 7, lines 37-40; column 9, lines 10-12; column 10, lines 15-20);
and

(iv) providing respectively to said first and second points issuer a first transaction message to withdraw the first number of first points from said first terminal database and to deposit the equivalent number of second points in said second terminal

database (see column 3, lines 35-55; column 6, lines 37-67; column 7, lines 37-40; column 9, lines 10-12; column 10, lines 15-20).

As per claim 4, Postrel teaches:

The program managing system as claimed in claim 3, wherein said transaction center further responds to the first transaction message to convert the first number of first points into an equivalent second number of second points and to deposit the second number of second points in said second terminal database of said second terminal (see column 3, lines 35-55; column 6, lines 37-67; column 7, lines 37-40; column 9, lines 1-12; "conversion rate").

As per claim 13, Postrel teaches:

A method of managing first and second points issuers, each of the first point issuer issuing first points and the second point issuer issuing second points at exchange rates set by the first and second point issuers respectively, said points exchanging method is implemented by a computer programmed to effect the following steps of

(a) entering first and second exchange rates by the first and second point issuers respectively (see column 3, line 35 – column 4, line 45; column 6, lines 35-67; column 10, lines 15-20; col 11, lines 25-30 "parameters to restrict the offer, such as exchange rate");

(b) entering a customer's request for buying first points and selling second points (see column 8, line 65 – col 9, line 20);

(c) determining the presence or absence of each of the first and second exchange rates (see column 4, lines 1-45; col 9, lines 1-15 "processor of the reward server may perform actions that may allow or refuse the requested action"); and

(d) blocking the selling and/or buying of points in the absence of either of the first or second exchange rates (see column 4, lines 1-45; column 9, lines 5-7). In Postrel, if there is not a conversion rate, there can be not exchanged between points of different points issuers.

As per claim 14, Postrel teaches:

A system for managing a loyalty points program at an exchange rate set by a proprietor of the point program, said system comprising:

(a) at least one terminal associated with the points program and comprising a terminal input, a terminal database and a terminal server programmed at least in part to effect the following effects:

(i) respond to a customer request to withdraw from and/or deposit points into said one terminal (see column 6, lines 1-52),

(ii) a point program proprietor entering and storing in said terminal database of exchange rates for the points of the loyalty points program (see column 6, lines 1-52); and

(iii) detect the absence of the exchange rates for the points program to transmit a blocking signal (see column 4, lines 1-45; col 3, lines 32-37). In Postrel an exchange rate is established for the relative consideration received by the companies

involved in the transaction, therefore, if there is not exchange rate or conversion rate, there is not a exchange between points.

(b) a transaction center coupled by a data transmission path to said one terminal and comprising a center input and a center server programmed to effect the following steps:

(i) respond to a customer request on said center input for transmitting via the data transmission path to said one terminal the customer request whereby points are withdrawn and/or deposited into the loyalty point program associated with said one terminal (see column 6, lines 1-55); and

(ii) respond to the blocking signal to prevent the transmission of the customer request (see column 4, lines 1-45; col 9, lines 1-10; "processor of the reward server may perform actions that may allow or refuse the requested action"⁷).

Claim 21, Postrel teaches:

A method of managing a first points issuer and a second points issuer, wherein first points are issued by the first points issuer, and second points are issued by the second points issuer and differ from the first points, said managing method is implemented at least in part by a computer programmed to effect the following steps of

a) a customer setting a first number of the first points to be sold (see col 9, lines 1-15) ;

b) the first points issuer setting its point withdrawal rate of the first points and the second point issuer setting its deposit rate of the second points to reflect respectively

⁷ Postrel col 9, lines 1-7

the monetary value of each of the first and second points in a common currency (see col 3, lines 32-37 “exchange rate”; col 9, lines 5-15 “conversion rate”; col 9, lines 49-55 “discount rate”). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposited into another reward entity (i.e. partner or associated air carrier⁸) based upon an exchange rate⁹. Therefore, Postrel allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased¹⁰;

c) transmitting the common currency of determined monetary value to the second points issuer (see col 7, lines 35-40);

d) determining the monetary value of the common currency transmitted from the first points issuer to the second points issuer as a function of the point withdrawal rate of the first points and the set first number of first points to be sold (see col 3, lines 30-40);
and

e) determining the number of second points to be deposited with the second points issuer as a function of the monetary value the transmitted common currency and the deposit rate of the second points issuer (see col 9, lines 1-10). In Postrel, when a user makes a redemption request to a reward server for available points or value, said reward server repurchased said points at a discount or withdrawal rate¹¹ and the user

⁸ Postrel col 8, lines 27-38

⁹ Postrel col 3, 30-35

¹⁰ Postrel col 5, lines 60-67

¹¹ Postrel col 9, lines 49-55

uses the value obtained from said repurchased to buy points from another point issuer at a conversion rate. Therefore, Postrel teaches a withdrawal and a deposit rate because Postrel withdraws points at a discount rate from one point issuer and uses a conversion rate to transform said points to points that would be accepted (i.e. deposited) by another point issuer.

Claim 22, Postrel teaches:

The method of managing as claimed in claim 21, wherein the first points issuer has a first database for storing an account of the customer's first points; and a second points issuer has a second database for storing an account of the customer's second points (see col 7, lines 35-40; figure 4, item 52).

Claim 23, Postrel teaches:

The method of managing as claimed in claim 22, wherein said method further comprises the step of depositing the determined number of second points in to the second database (see col 7, lines 35-42; col 11, line 60 – col 12, line 5).

Claim 24, Postrel teaches:

The method of using a monetary currency to redeem first points of a first loyalty point program and to purchase second points of a second loyalty program, the first loyalty point program comprises a first issuer of the first loyalty points, the second loyalty program comprises a second issuer of the second loyalty points, at least one of the first loyalty points differing from the second loyalty points, the monetary currency using method is implemented at least in part by a computer programmed to effect the following steps of

a) the first and second issuers respectively setting a first withdrawal rate for the first loyalty point program and a second deposit rate for the second loyalty point program In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposit into another reward entity (i.e. partner or associated air carrier¹²) based upon an exchange rate¹³. Therefore, Postrel allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased¹⁴;

b) a member of the first loyalty program setting a first number of the first points to be redeemed (see col 9, lines 1-10);

c) determining as a function of the first number of the first points and the first withdrawal rate, the monetary value of the first number of the first points as a determined amount of the monetary currency (see col 9, lines 1-10; "conversion rate"; and

d) determining a second number of the second points to be purchased as a function of the determined amount of monetary currency and the second deposit rate. Postrel allows issuers who originally sold reward points in their program for use as an incentive by third parties to repurchase points at a substantial discount, thereby

¹² Postrel col 8, lines 27-38

¹³ Postrel col 3, 30-35

¹⁴ Postrel col 5, lines 60-67

reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased¹⁵.

Claim 25, Postrel teaches:

The method of managing as claimed in claim 24, wherein each of the first and second loyalty programs has a plurality of corresponding members and comprises a database, each database with a plurality of corresponding files, each file for storing the loyalty points that were accumulated by the corresponding member of its loyalty program (see col 5, lines 35-50).

Claim 26, Postrel teaches:

The method of managing as claimed in claim 25 wherein step b) transmits currency to the file of the corresponding member of the second loyalty program (see col 7, lines 35-40).

Claim 27, Postrel teaches:

The method of managing as claimed in claim 26, wherein there is further included a step of providing an interface to implement step c) of determining the value of the number of the first points and step d) for determining the number of second points, the interface operating independently the first and second point issuers (see col 8, lines 25-40).

Claim 28, Postrel teaches:

The method of using a common monetary currency to manage a plurality of loyalty point programs, each loyalty program comprises a loyalty points issuer, at least

¹⁵ Postrel col 5, lines 60-67

one of the plurality of loyalty points issuers issuing first points, at least another of the plurality of loyalty points issuer issuing second points that differ from the first points, the monetary currency using method is implemented at least in part by a computer programmed to effect the following steps of

a) each of the plurality of points issuers setting a withdrawal rate and a deposit rate for its loyalty program (see col 9, lines 1-20);

b) a member of a related loyalty program setting a first number of the its loyalty points to be redeemed (see col 9, lines 1-10);

d) determining as a function of the set number of loyalty points and the deposit rate of the related loyalty program, the monetary value of the set number of points as a determined amount of the monetary currency (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate"). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposit into another reward entity (i.e. partner or associated air carrier¹⁶) based upon an exchange rate¹⁷. Therefore, allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased¹⁸; and

e) determining a second number of points to be purchased as a function of the determined amount of monetary currency and the deposit rate of the related loyalty

¹⁶ Postrel col 8, lines 27-38

program (see col 9, lines 1-20). In Postrel, when a user makes a redemption request to a reward server for available points or value, said reward server repurchased said points at a discount or withdrawal rate¹⁹ and the user use the value obtained from said repurchased to buy points from another point issuer at a conversion rate. Therefore, Postrel teaches a withdrawal and a deposit rate, where points are withdrawn from a user's reward account at a discount rate and are converted and deposited into another point issuer account at a conversion rate.

Claim 29, Postrel teaches:

A method of managing at least first and second points issuers, each of said first and second points issuers comprising a set of points, said managing method implemented by a computer programmed to effect the following steps of: (a) the first points issuer independently setting a withdrawing rate which defines the value of one point of the withdrawal rate in terms of a common currency (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate").

(b) the second points issuer independently setting a deposit rate which defines the value of one point of the deposit rate in term of the common currency (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate").

(c) the first points issuer setting a first number of its first points to be traded to the second points issuer (see col 9, lines 1-20); d) multiplying the first number of the first

¹⁷ Postrel col 3, 30-35

points times the withdrawal rate of the first points issuer to provide a value of the first number of the first points in the common currency (see col 9, lines 1-20);

(e) multiplying the value of the first number of the first points in the common currency times the deposit rate of the second points issuer to provide the corresponding number of the second points to be traded and (f) trading the first number of the first points for the corresponding second number of the second points of the second points issuer (see col 9, lines 1-20). In Postrel, when a user makes a redemption request to a reward server for available points or value, said reward server repurchased said points at a discount or withdrawal rate²⁰ and the user use the value obtained from said repurchased to buy points from another point issuer at a conversion rate. Therefore, Postrel teaches a withdrawal and a deposit rate, where points are withdrawn from a user's reward account at a discount rate and are converted and deposited into another point issuer account at a conversion rate.

Claim 30, Postrel teaches:

A method of managing at least first and second points issuers as recited in claim 29, wherein the first points issuer is facilitated to sell its points to the second points issuer at a price set by the first issuer, and the second points issuer is facilitated to buy the points of the first issuer at a price set by the second issuer (see col 9, lines 1-20).

Claim 31, Postrel teaches:

A method of managing at least a points withdrawing loyalty program which comprises a plurality of withdrawing points and a points depositing loyalty program

¹⁸ Postrel col 5, lines 60-67

which comprises a plurality of deposit points, said managing method implemented at least in part by a computer programmed to effect the following steps of:

a) the points withdrawing loyalty program setting a number of its withdrawing points (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate").

b) the points withdrawing loyalty program setting a points withdrawing rate, which defines the value of one of the withdrawing points in terms of its common currency;

c) multiplying the first number of the withdrawing points times the point withdrawing rate to provide a value of the number of the withdrawing points in terms of the common currency (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate"). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposit into another reward entity (i.e. partner or associated air carrier²¹) based upon an exchange rate²². Therefore, allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased²³;

d) the depositing loyalty program setting from the deposit loyalty program a points deposit rate, which defines the value of one point of the deposit rate in terms of

¹⁹ Postrel col 9, lines 49-55

²⁰ Postrel col 9, lines 49-55

²¹ Postrel col 8, lines 27-38

²² Postrel col 3, 30-35

²³ Postrel col 5, lines 60-67

its common currency (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate"); and

e) multiplying the value of the number of withdrawing points times the point deposit rate for the depositing loyalty program to output the number of points to be deposited in the points deposit loyalty program (see column 9, lines 10-15; column 10, lines 15-30). Postrel allows issuers who originally sold reward points in their program for use as an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased²⁴. Therefore, Postrel teaches a withdrawal and a deposit rate because Postrel withdraws points from a first point issuer at a discount rate and uses a conversion rate to transform said points from said first point issuer to points that would be accepted (i.e. deposited) by another point issuer.

Claim 32, Postrel teaches:

setting in connection with the points withdrawing loyalty program is lower than the book liability per point, the points withdrawing rate, and by selling a points deposit rate higher than the book liability per point rate, then the points withdrawing loyalty program and the points deposit loyalty program are both able to generate a profit on the transactions with both the points withdrawing loyalty program and the points deposit loyalty program (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate"). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first

²⁴ Postrel col 5, lines 60-67

reward entity and are deposited into another reward entity (i.e. partner or associated air carrier²⁵) based upon an exchange rate²⁶. Therefore, Postrel allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased²⁷.

Claim 33, Postrel teaches:

wherein the method of managing is implemented by an interchange between the points withdrawing loyalty program and the points deposit loyalty program, said interchange being connected to the points withdrawing loyal program to provide the value of a number of the withdrawing points in terms of the common currency, whereby the points withholding loyalty program can extract a profit from the value of the number of the withdrawing points (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate"). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposited into another reward entity (i.e. partner or associated air carrier²⁸) based upon an exchange rate²⁹. Therefore, Postrel allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their

²⁵ Postrel col 8, lines 27-38

²⁶ Postrel col 3, 30-35

²⁷ Postrel col 5, lines 60-67

²⁸ Postrel col 8, lines 27-38

²⁹ Postrel col 3, 30-35

liability and allowing for a trading strategy that enables points to continually be sold and repurchased³⁰.

Claim 34, Postrel teaches:

wherein the withdrawing loyalty program determines the number of the points to be sold, setting a liability withdrawal rate, multiplying the liability withdrawing rate times the number of points to be removed from the books of the withdrawing loyalty program, and removing the amount of withdrawing liability in terms of the common currency from the withdrawing loyalty program (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate"). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposited into another reward entity (i.e. partner or associated air carrier³¹) based upon an exchange rate³². Therefore, Postrel allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased³³.

Claim 35, Postrel teaches:

wherein the depositing loyalty program determines the number of the points to be purchased, setting a liability depositing rate, multiplying the liability depositing rate times the number of points to be added to the books of the depositing program, and removing

³⁰ Postrel col 5, lines 60-67

³¹ Postrel col 8, lines 27-38

³² Postrel col 3, 30-35

³³ Postrel col 5, lines 60-67

the amount of the depositing liability in terms of the currency from the depositing program (see col 3, lines 32-37 “exchange rate”; col 9, lines 5-15 “conversion rate”; col 9, lines 49-55 “discount rate”). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposited into another reward entity (i.e. partner or associated air carrier³⁴) based upon an exchange rate³⁵. Therefore, Postrel allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased³⁶.

Claim 36, Postrel teaches:

wherein a transaction fee is calculated as a percentage of the value of the number of points selected by a customer in the common currency (see col 6, lines 40-50).

Claim 37, Postrel teaches:

wherein the first points issuer and second points issuer calculates a point exchange rate as the quotient of the number of the withdrawing points of the first points issuer divided by the number of the deposit points of the second point issuer (see col 3, lines 32-37 “exchange rate”; col 9, lines 5-15 “conversion rate”; col 9, lines 49-55 “discount rate”). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposited

³⁴ Postrel col 8, lines 27-38

³⁵ Postrel col 3, 30-35

³⁶ Postrel col 5, lines 60-67

into another reward entity (i.e. partner or associated air carrier³⁷) based upon an exchange rate³⁸. Therefore, Postrel allows points issuers who originally sold reward points in their program for use as an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased³⁹.

Claim 38, Postrel teaches:

A method for managing an exchange of points to and from a loyalty program, said loyalty program comprising a withdrawing issuing of points and a depositing issuing of points, the loyalty program including an administrator, said managing method implemented in part by a computer programmed to the effect the following steps of: a) the loyalty program administrator sets a withdrawing rate which defines the value of a points withdrawing rate in terms of a common currency and a points depositing rate which defines the value of one point of the deposit rate in terms of the common currency (see column 4, lines 3-45; col 9, lines 1-12);

b) the loyalty program administration sets a first number of its withdrawing points to be traded to another loyalty program (see col 3, lines 32-37 "exchange rate"; col 9, lines 5-15 "conversion rate"; col 9, lines 49-55 "discount rate"). In Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are deposited into another reward entity (i.e. partner or associated air carrier⁴⁰) based upon an exchange rate⁴¹. Therefore, Postrel

³⁷ Postrel col 8, lines 27-38

³⁸ Postrel col 3, 30-35

³⁹ Postrel col 5, lines 60-67

⁴⁰ Postrel col 8, lines 27-38

allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased⁴²;

c) the loyalty program administrator setting the first number of the withdrawing issuing of points, and multiplying the first number of the first points times the withdrawing rate to provide a value of the first number of the first points in the common currency (see column 4, lines 3-45; column 3, lines 35-45; column 5, lines 35-40; column 6, lines 37-47; column 7, lines 35-40; column 7, lines 63-67);

d) receiving a second number of second points from another loyalty program and
e) multiplying the value created by the second number of second points times the deposit rate of the second points issuer to provide the corresponding number of the second points to be traded (see column 4, lines 3-45; column 3, lines 35-45; column 5, lines 35-40; column 6, lines 37-47; column 10-12; column 15-20; column 11, line 60 – column 12, line 8). In Postrel, when a user makes a redemption request to a reward server for available points or value, said reward server repurchased said points at a discount or withdrawal rate⁴³, where the value obtained from said repurchased is used to buy points from another point issuers at a conversion rate (i.e. deposit rate). Therefore, Postrel teaches a withdrawal and a deposit rate, as Postrel withdraws points from a first point issuer at a discount rate and uses a conversion rate to transform said

⁴¹ Postrel col 3, 30-35

⁴² Postrel col 5, lines 60-67

⁴³ Postrel col 9, lines 49-55

points from said first point issuer to points that would be accepted (i.e. deposited) by another point issuer.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 13-14 and 21-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee (US 2001/0054006).

As per claim 1, Lee teaches:

A method of managing a first points issuer and a second points issuer, wherein first points are issued by the first points issuer and differ from the second points that are issued by the second points issuer, said managing method is implemented by a computer programmed to effect the following steps of:

(a) a customer setting a first number of the first points to be sold (see figures 4 and 5; paragraphs 42-43);

(b) the first points issuers setting the point withdrawal rate of the first points and the second point issuer setting the deposit rate of the second points, each of said withdrawal rate and of said deposit rate being indicative of the monetary value of each of the first points and each of the second points respectively (see figures 4 and 5; see paragraphs 42-43);

(c) determining a second number of the second points based upon the point withdrawal and rate of the first points issuer, the deposit rate of the second points issuer and the first number of the first points (see paragraphs 42-43; figures 4 and 5); and

(d) exchanging the first number of the first points from the first point issuer to the second point issuer (see paragraphs 42-43; figures 4 and 5). Lee figures 4 and 5 teach an example when a customer sell 15,520 points of B Oil company and 500 points of B shopping club in order to buy 12,777 points of A Airline. In said example, the withdrawal rate for B Oil Company is \$.71/point (i.e. $\$710/1000$ points) and the withdrawal rate for B shopping club is \$.45/point (i.e. $\$450/1000$ points). Therefore, selling 15,520 points of B Oil Company would be converted to \$11,019 (i.e. $15,520 \text{ points} \times \$.71/\text{point}$) and selling 500 points of B shopping club would be converted to \$225 (i.e. $500 \text{ points} \times \$.45/\text{point}$) for a total of \$11,244 (i.e. $\$225 + \$11,019$). Using said \$11,244 to buy A airline points at a deposit rate of 1.13 points / \$ (i.e. $1000 \text{ points} / \$880$) would buy a total of 12,777 points (i.e. $\$11,244 \times 1.13 \text{ points}/\$$). Then adding the amount of previously hold points in the user account related to A Airline, which was 47,000 points

(see figure 4) would result in a total of 59,777 points (see figure 5). Therefore, Lee teaches two point issuers, withdrawal and deposit rates and that the first points are exchanged from the first point issuer to the second point issuer.

As per claim 2, Lee teaches:

The method of managing as claimed in claim 1, wherein said step c) of determining the equivalent number of the second points comprises the substeps of:

(i) determining the monetary value of the first number of first points as the product of the first number of first points and the point withdrawal rate of the first points issuer (see figures 4 and 5); and

(ii) determining the equivalent number of the second points as the quotient of the monetary value of the first number of first points divided by the point depositing rate of the second points issuer (see figures 4 and 5).

As per claim 3, Lee teaches:

A system for managing first and second points issuers, first points are issued by a first point issuer and differ from second points that are issued by the second point issuer, said managing system comprising:

(a) a first terminal having a first terminal database for storing an account of the customer's first points (see figures 4 and 5);

(b) a second terminal having a second terminal database for storing an account of the customer's second points (see figures 4 and 5); and

(c) a transaction center having a center input and a central computer programmed to effect the following steps:

(i) the customer setting via said center input a first number of first points to be sold (see figures 4 and 5);

(ii) the first point issuer setting a point withdrawal rate of the first points and the second point issuer setting a point deposit rate of the second points, each of said withdrawal rate and said deposit rate being indicative of the monetary value of each of their first points and the monetary value of each of their second points respectively (see figures 4 and 5);

(iii) determining an equivalent number of the second points based upon the point withdrawal and rate of the first points issuer, the point deposit rate of the second point issuer, and the first number of the first points (see figures 4 and 5) and

(iv) providing respectively to said first and second points issuer a first transaction message to withdraw the first number of first points from said first terminal database and to deposit the equivalent number of second points in said second terminal database (see figures 4 and 5).

As per claim 4, Lee teaches:

The program managing system as claimed in claim 3, wherein said transaction center further responds to the first transaction message to convert the first number of first points into an equivalent second number of second points and to deposit the second number of second points in said second terminal database of said second terminal (see figures 4 and 5).

As per claim 13, Lee teaches:

A method of managing first and second points issuers, each of the first point issuer issuing first points and the second point issuer issuing second points at exchange rates set by the first and second point issuers respectively, said points exchanging method is implemented by a computer programmed to effect the following steps of

- (a) entering first and second exchange rates by the first and second point issuers respectively (see figures 4 and 5);
- (b) entering a customer's request for buying first points and selling second points (see figures 4 and 5);
- (c) determining the presence or absence of each of the first and second exchange rates (see figures 4 and 5); and
- (d) blocking the selling and/or buying of points in the absence of either of the first or second exchange rates (see figures 4 and 5).

As per claim 14, Lee teaches:

A system for managing a loyalty points program at an exchange rate set by a proprietor of the point program, said system comprising:

- (a) at least one terminal associated with the points program and comprising a terminal input, a terminal database and a terminal server programmed at least in part to effect the following effects:
 - (i) respond to a customer request to withdraw from and/or deposit points into said one terminal (see figures 4 and 5),
 - (ii) a point program proprietor entering and storing in said terminal database of exchange rates for the points of the loyalty points program (see figures 4 and 5); and

(iii) detect the absence of the exchange rates for the points program to transmit a blocking signal (see figures 4 and 5); and

(b) a transaction center coupled by a data transmission path to said one terminal and comprising a center input and a center server programmed to effect the following steps:

(i) respond to a customer request on said center input for transmitting via the data transmission path to said one terminal the customer request whereby points are withdrawn and/or deposited into the loyalty point program associated with said one terminal (see figures 4 and 5); and

(ii) respond to the blocking signal to prevent the transmission of the customer request (see figures 4 and 5).

Claim 21, Lee teaches:

A method of managing a first points issuer and a second points issuer, wherein first points are issued by the first points issuer, and second points are issued by the second points issuer and differ from the first points, said managing method is implemented at least in part by a computer programmed to effect the following steps of

a) a customer setting a first number of the first points to be sold (see figures 4 and 5 ;

b) the first points issuer setting its point withdrawal rate of the first points and the second point issuer setting its deposit rate of the second points to reflect respectively the monetary value of each of the first and second points in a common currency (figures 4 and 5);

c) transmitting the common currency of determined monetary value to the second points issuer (see figures 4 and 5);

d) determining the monetary value of the common currency transmitted from the first points issuer to the second points issuer as a function of the point withdrawal rate of the first points and the set first number of first points to be sold (see figures 4 and 5);
and

e) determining the number of second points to be deposited with the second points issuer as a function of the monetary value the transmitted common currency and the deposit rate of the second points issuer (see figures 4 and 5).

Claim 22, Lee teaches:

The method of managing as claimed in claim 21, wherein the first points issuer has a first database for storing an account of the customer's first points; and a second points issuer has a second database for storing an account of the customer's second points (see figures 4 and 5).

Claim 23, Lee teaches:

The method of managing as claimed in claim 22, wherein said method further comprises the step of depositing the determined number of second points in to the second database (see figures 4 and 5).

Claim 24, Lee teaches:

The method of using a monetary currency to redeem first points of a first loyalty point program and to purchase second points of a second loyalty program, the first loyalty point program comprises a first issuer of the first loyalty points, the second

loyalty program comprises a second issuer of the second loyalty points, at least one of the first loyalty points differing from the second loyalty points, the monetary currency using method is implemented at least in part by a computer programmed to effect the following steps of

a) the first and second issuers respectively setting a first withdrawal rate for the first loyalty point program and a second deposit rate for the second loyalty point program (see figures 4 and 5);

b) a member of the first loyalty program setting a first number of the first points to be redeemed (see figures 4 and 5);

c) determining as a function of the first number of the first points and the first withdrawal rate, the monetary value of the first number of the first points as a determined amount of the monetary currency (see figures 4 and 5); and

d) determining a second number of the second points to be purchased as a function of the determined amount of monetary currency and the second deposit rate (see figures 4 and 5).

Claim 25, Lee teaches:

The method of managing as claimed in claim 24, wherein each of the first and second loyalty programs has a plurality of corresponding members and comprises a database, each database with a plurality of corresponding files, each file for storing the loyalty points that were accumulated by the corresponding member of its loyalty program (see figures 4 and 5).

Claim 26, Lee teaches:

The method of managing as claimed in claim 25, wherein step b) transmits currency to the file of the corresponding member of the second loyalty program (see figures 4 and 5).

Claim 27, Lee teaches:

The method of managing as claimed in claim 26, wherein there is further included a step of providing an interface to implement step c) of determining the value of the number of the first points and step d) for determining the number of second points, the interface operating independently the first and second point issuers (see figures 4 and 5).

Claim 28, Lee teaches:

The method of using a common monetary currency to manage a plurality of loyalty point programs, each loyalty program comprises a loyalty points issuer, at least one of the plurality of loyalty points issuers issuing first points, at least another of the plurality of loyalty points issuer issuing second points that differ from the first points, the monetary currency using method is implemented at least in part by a computer programmed to effect the following steps of

a) each of the plurality of points issuers setting a withdrawal rate and a deposit rate for its loyalty program (see figures 4 and 5);

b) a member of a related loyalty program setting a first number of the its loyalty points to be redeemed (see figures 4 and 5).

d) determining as a function of the set number of loyalty points and the deposit rate of the related loyalty program, the monetary value of the set number of points as a determined amount of the monetary currency (see figures 4 and 5); and

e) determining a second number of points to be purchased as a function of the determined amount of monetary currency and the deposit rate of the related loyalty program (see figures 4 and 5).

Claim 29, Lee teaches:

A method of managing at least first and second points issuers, each of said first and second points issuers comprising a set of points, said managing method implemented by a computer programmed to effect the following steps of: (a) the first points issuer independently setting a withdrawing rate which defines the value of one point of the withdrawal rate in terms of a common currency (see paragraphs 42-43| figure 4, item 408);

(b) the second points issuer independently setting a deposit rate which defines the value of one point of the deposit rate in term of the common currency (see figure 4, item 408);

(c) the first points issuer setting a first number of its first points to be traded to the second points issuer (see paragraphs 42-43);

d) multiplying the first number of the first points times the withdrawal rate of the first points issuer to provide a value of the first number of the first points in the common currency (see paragraphs 42-43);

(e) multiplying the value of the first number of the first points in the common currency times the deposit rate of the second points issuer to provide the corresponding number of the second points to be traded (see paragraphs 42-43); and

(f) trading the first number of the first points for the corresponding second number of the second points of the second points issuer (see paragraphs 42-43).

Claim 30, Lee teaches:

wherein the first points issuer is facilitated to sell its points to the second points issuer at a price set by the first issuer, and the second points issuer is facilitated to buy the points of the first issuer at a price set by the second issuer (see paragraphs 42-43; figures 4 and 5).

Claim 31, Lee teaches:

A method of managing at least a points withdrawing loyalty program which comprises a plurality of withdrawing points and a points depositing loyalty program which comprises a plurality of deposit points, said managing method implemented at least in part by a computer programmed to effect the following steps of:

a) the points withdrawing loyalty program setting a number of its withdrawing points (see paragraphs 42-43; figures 4 and 5);

b) the points withdrawing loyalty program setting a points withdrawing rate, which defines the value of one of the withdrawing points in terms of its common currency;

c) multiplying the first number of the withdrawing points times the point withdrawing rate to provide a value of the number of the withdrawing points in terms of the common currency (see paragraphs 42-43; figures 4 and 5);

d) the depositing loyalty program setting from the deposit loyalty program a points deposit rate, which defines the value of one point of the deposit rate in terms of its common currency (see paragraphs 42-43; figures 4 and 5); and

e) multiplying the value of the number of withdrawing points times the point deposit rate for the depositing loyalty program to output the number of points to be deposited in the points deposit loyalty program (see paragraphs 42-43; figures 4 and 5).

Claim 32, Lee teaches:

said managing method implemented at least in part by a computer programmed to effect the following steps of: setting in connection with the points withdrawing loyalty program is lower than the book liability per point, the points withdrawing rate, and by selling a points deposit rate higher than the book liability per point rate, then the points withdrawing loyalty program and the points deposit loyalty program are both able to generate a profit on the transactions with both the points withdrawing loyalty program and the points deposit loyalty program (see paragraphs 37, 42-45).

Claim 33, Lee teaches:

wherein the method of managing is implemented by an interchange between the points withdrawing loyalty program and the points deposit loyalty program, said interchange being connected to the points withdrawing loyal program to provide the value of a number of the withdrawing points in terms of the common currency, whereby the points withholding loyalty program can extract a profit from the value of the number of the withdrawing points (see paragraphs 37, 42-45).

Claim 34, Lee teaches:

wherein the withdrawing loyalty program determines the number of the points to be sold, setting a liability withdrawal rate, multiplying the liability withdrawing rate times the number of points to be removed from the books of the withdrawing loyalty program, and removing the amount of withdrawing liability in terms of the common currency from the withdrawing loyalty program (see paragraphs 42-45).

Claim 35, Lee teaches:

wherein the depositing loyalty program determines the number of the points to be purchased, setting a liability depositing rate, multiplying the liability depositing rate times the number of points to be added to the books of the depositing program, and removing the amount of the depositing liability in terms of the currency from the depositing program (see paragraphs 37, 42-45).

Claim 36, Lee teaches:

wherein a transaction fee is calculated as a percentage of the value of the number of points selected by a customer in the common currency (see paragraph 45).

Claim 37, Lee teaches:

wherein the first points issuer and second points issuer calculates a point exchange rate as the quotient of the number of the withdrawing points of the first points issuer divided by the number of the deposit points of the second point issuer (see paragraphs 42-44).

Claim 38, Lee teaches:

A method for managing an exchange of points to and from a loyalty program, said loyalty program comprising a withdrawing issuing of points and a depositing issuing

of points, the loyalty program including an administrator, said managing method implemented in part by a computer programmed to the effect the following steps of:

a) the loyalty program administrator sets a withdrawing rate which defines the value of a points withdrawing rate in terms of a common currency and a points depositing rate which defines the value of one point of the deposit rate in terms of the common currency (See paragraphs 42-45; figures 4 and 5);

b) the loyalty program administration sets a first number of its withdrawing points to be traded to another loyalty program (see paragraphs 42-45);

c) the loyalty program administrator setting the first number of the withdrawing issuing of points, and multiplying the first number of the first points times the withdrawing rate to provide a value of the first number of the first points in the common currency (see figures 4 and 5);

d) receiving a second number of second points from another loyalty program ; and e) multiplying the value created by the second number of second points times the deposit rate of the second points issuer to provide the corresponding number of the second points to be traded (see paragraphs 42-45). Lee figures 4 and 5 teach an example when a customer sell 15,520 points of B Oil company and 500 points of B shopping club in order to buy 12,777 points of A Airline. In said example, the withdrawal rate for B Oil Company is \$.71/point (i.e. $\$710/1000$ points) and the withdrawal rate for B shopping club is \$.45/point (i.e. $\$450/1000$ points). Therefore, selling 15,520 points of B Oil Company would be converted to \$11,019 (i.e. $15,520 \text{ points} \times \$.71/\text{point}$) and selling 500 points of B shopping club would be converted to \$225 (i.e. $500 \text{ points} \times \$.45/\text{point}$)

for a total of \$11,244 (i.e. \$225 + \$11,019). Using said \$11,244 to buy A airline points at a deposit rate of 1.13 points / \$ (i.e. 1000 points / \$880) would buy a total of 12,777 points (i.e. \$11,244 x 1.13 points/\$). Then adding the amount of previously hold points in the user account related to A Airline, which was 47,000 points (see figure 4) would result in a total of 59,777 points (see figure 5). Therefore, Lee teaches two point issuers, withdrawal and deposit rates and that the first points are exchanged from the first point issuer to the second point issuer.

Response to Arguments

6. Applicant's arguments have been fully considered but they are not persuasive. The Applicant argues that Postrel does not teach first and second point issuers and that Postrel does not teach the conversion rates that transfer points between the first and second point issuers or loyalty programs. The Examiner answers that in Postrel, points are exchanged from one reward entity to another at a conversion rate, where points are withdrawn from a first reward entity and are transferred or deposited⁴⁴ into another reward entity (i.e. partner or associated air carrier⁴⁵) using an exchange rate⁴⁶. Postrel allows points issuers who originally sold reward points in their program for use an incentive by third parties to repurchase points at a substantial discount, thereby reducing their liability and allowing for a trading strategy that enables points to continually be sold and repurchased⁴⁷. Therefore, when in Postrel a user makes a redemption request to a reward server for available points or value, said reward server

⁴⁴ Postrel col 7, lines 35-42

⁴⁵ Postrel col 8, lines 27-38

⁴⁶ Postrel col 3, 30-35

repurchased said points at a discount or withdrawal rate⁴⁸, where the value obtained from said repurchased is used to buy points from another point issuers at a conversion rate (i.e. deposit rate). Therefore, Postrel teaches a withdrawal and a deposit rate, as Postrel withdraws points from a first point issuer at a withdrawal rate (i.e. point issuer buys the points at discount rate) and uses a conversion rate to transform said points from said first point issuer to points that would be accepted (i.e. deposited) by another point issuer at a deposit rate.

The Applicant argues that Postrel does not teach at least two issuers may set the price of its respective withdrawal rates and deposit rates. The Examiner answers that Postrel teaches allowing issuers of reward points to take point off the book and eliminate them, if desired at a discount rate⁴⁹, an exchange rate will be established for the relative consideration received by the companies involved in the transaction⁵⁰ and the reward server may refuse a redemption request⁵¹. Therefore, in Postrel the points issuers indicate the consideration of the exchange rate that would accepted to perform a conversion from one point value to another.

The Applicant argues that Applicants disclose two different rates, that functionally differ from Postrel's one "conversion or exchange rate". The Examiner answers that Postrel teaches two exchange rate, the rate when points are withdrawn from a point issuer and the rate when said withdrawn points are used (i.e. deposited) into another point issuer (i.e. associate airline) in order to buy products from said associated airlines

⁴⁷ Postrel col 5, lines 60-67

⁴⁸ Postrel col 9, lines 49-55

⁴⁹ Postrel col 9, lines 50-55

with said points (see col 11, lines 60-67) and where said withdrawal and deposit is done at a conversion rate. Therefore, contrary to Applicant's argument, Postrel teaches two different rates.

The Applicant argues that the Examiner is not relying not on the teaching of Postrel to teach the use of his point withdrawal rate and his point deposit rate, but rather is using, according to the Applicant, the Applicant's own teaching. The Examiner answers that Postrel teaches two exchange rate, the rate when points are withdrawn from a point issuer and the rate when said withdrawn points are used (i.e. deposited) into another point issuer (i.e. associate airline) in order to buy products from said associated airlines with said points (see col 11, lines 60-67) and where said withdrawal and deposit is done at a conversion rate. Therefore, contrary to Applicant's argument, Postrel teaches a withdrawal and a deposit rate.

The Applicant argues that the customer shops of Lee do not function as point issuers but rather, according to the Applicant, as point trading service 24. The Examiner answers that the customer's shop of Lee are participating members, where points earned by customer in each member participating shop is collected by the trading service and stored in a customer database (see paragraph 13). Therefore, contrary to Applicant's argument, Lee member shops are point issuers.

The Applicant argues that exchange rates of Lee are fixed for their respective shops for both selling and buying functions by only a single entity and according to the Applicant, this is different from Applicant's claimed invention. The Examiner answers

⁵⁰ Postrel col 3, lines 30-40

that in Lee, the difference between the buying and selling exchange rate is fixed in order to use it for management expenses and profit, but the buying and selling exchange rate is different for each store (see paragraph 37). Furthermore, Applicant's claims simply recite "setting a first number of its first points to be traded to the second point issuers, multiplying the number of first points times the points withdrawal rate to provide a value of number of the first points, multiplying the value of the first number of its points times the deposit rate of the second points to provide the corresponding number of the second points to be traded and then exchanging the first number of the first points for the corresponding second number of the second points of the second point issuer. Lee figures 4 and 5 teach an example when a customer sell 15,520 points of B Oil company and 500 points of B shopping club in order to buy 12,777 points of A Airline. In said example, the withdrawal rate for B Oil Company is \$.71/point (i.e. $\$710/1000$ points) and the withdrawal rate for B shopping club is \$.45/point (i.e. $\$450/1000$ points). Therefore, selling 15,520 points of B Oil Company would be converted to \$11,019 (i.e. $15,520 \text{ points} \times \$0.71/\text{point}$) and selling 500 points of B shopping club would be converted to \$225 (i.e. $500 \text{ points} \times \$0.45/\text{point}$) for a total of \$11,244 (i.e. $\$225 + \$11,019$). Using said \$11,244 to buy A airline points at a deposit rate of 1.13 points / \$ (i.e. $1000 \text{ points} / \$880$) would buy a total of 12,777 points (i.e. $\$11,244 \times 1.13 \text{ points}/\$$). Then adding the amount of previously hold points in the user account related to A Airline, which was 47,000 points (see figure 4) would result in a total of 59,777 points (see figure 5). Therefore, contrary to Applicant's argument, Lee teaches two point

⁵¹ Postrel col 9, lines 1-10

issuers, withdrawal and deposit rates and that the first points are exchanged from the first point issuer to the second point issuer.

The Applicant argues that the Examiner's disclosure is more complete than Lee's disclosure and that the Examiner errs when he relies upon Applicant's disclosure and not Lee's disclosure to support his rejection. The Examiner answers that the Examiner is simply explaining and interpreting to the Applicant, the Lee's invention of trading points from one point issuer to another, which is exactly, what Applicant's claimed invention is doing.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT A WEINHARDT can be reached on (571)272-6633. The official Fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/
Primary Examiner, Art Unit 3688
September 30, 2009